

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6201**

**BILL NUMBER: SB 95**

**NOTE PREPARED:** Nov 21, 2011

**BILL AMENDED:**

**SUBJECT:** Official Misconduct.

**FIRST AUTHOR:** Sen. Lanane

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill specifies that a public servant commits official misconduct if the public servant commits an offense while misusing a power possessed by virtue of state law, or if the public servant commits an offense while appearing to be exercising authority granted by state law that the public servant does not possess.

The bill also provides that a law enforcement officer who, knowing that the entry is unlawful, enters the residence of another person without having a reasonable belief that the unlawful entry is necessary to prevent injury or death commits unlawful entry by law enforcement, a Class D felony, and increases the penalty to a Class C felony if it results in serious bodily injury to another person.

(The introduced version of this bill was prepared by the Legislative Council Barnes v. State Subcommittee.)

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Penalty Provisions:* This bill specifies what constitutes official misconduct by public servants, which is a Class D felony. Also, this bill provides that the penalty for unlawful entry by law enforcement is a Class D felony, and may be increased to a Class C felony if serious bodily injury to another person occurs.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical

care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, while the average length of stay for all Class C felony offenders is approximately two years.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for Class C and Class D felonies is \$10,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Jessica Harmon, 317-232-9854.